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## SCHEDULES

### SCHEDULE 24

#### PENALTIES FOR ERRORS

##### Modifications etc. (not altering text)

- C1** Sch. 24 applied (N.I.) (1.4.2008) by [The Education \(Student Loans\) \(Repayment\) Regulations \(Northern Ireland\) 2000 \(S.R. 2000/121\)](#), **regs. 7(2A)(b), 26(4)** (as amended by [S.R. 2008/129](#), **regs. 1, 3(a), 4**)
- C1** Sch. 24 applied (6.4.2008) by [The Social Security \(Contributions\) Regulations 2001 \(S.I. 2001/1004\)](#), [Sch. 4 paras. 22\(7\), 31\(8\)](#) (as amended by [The Social Security \(Contributions\) \(Amendment No. 3\) Regulations 2008 \(S.I. 2008/636\)](#), **regs. 1(3)(b), 7**)

#### PART 2

##### AMOUNT OF PENALTY

###### *Standard amount*

- 4 (1) The penalty payable under paragraph 1 is—
- (a) for careless action, 30% of the potential lost revenue,
  - (b) for deliberate but not concealed action, 70% of the potential lost revenue, and
  - (c) for deliberate and concealed action, 100% of the potential lost revenue.
- [<sup>F1</sup>(1A) The penalty payable under paragraph 1A is 100% of the potential lost revenue.]
- (2) The penalty payable under paragraph 2 is 30% of the potential lost revenue.
- (3) Paragraphs 5 to 8 define “potential lost revenue”.

##### Textual Amendments

- F1** Sch. 24 para. 4(1A) inserted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 122(2), **Sch. 40 para. 6**; [S.I. 2009/571](#), **art. 2**

##### Commencement Information

- II** Sch. 24 para. 4 in force at 1.4.2008 for certain purposes, 1.7.2008 for certain purposes, 1.1.2009 for certain purposes, and 1.4.2009 in so far as not already in force by [S.I. 2008/568](#), **art. 2** (with **art. 3**)

###### *Potential lost revenue: normal rule*

- 5 (1) “The potential lost revenue” in respect of an inaccuracy in a document [<sup>F2</sup>(including an inaccuracy attributable to a supply of false information or withholding of

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- information)] or a failure to notify an under-assessment is the additional amount due or payable in respect of tax as a result of correcting the inaccuracy or assessment.
- (2) The reference in sub-paragraph (1) to the additional amount due or payable includes a reference to—
- (a) an amount payable to HMRC having been erroneously paid by way of repayment of tax, and
  - (b) an amount which would have been repayable by HMRC had the inaccuracy or assessment not been corrected.
- (3) In sub-paragraph (1) “tax” includes national insurance contributions.
- (4) The following shall be ignored in calculating potential lost revenue under this paragraph—
- (a) group relief, and
  - (b) section 419(4) of ICTA (close company: relief for loans);
- (but this sub-paragraph does not prevent a penalty being charged in respect of an inaccurate claim for relief).

#### Textual Amendments

- F2** Words in Sch. 24 para. 5(1) inserted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 7](#); [S.I. 2009/571](#), [art. 2](#)

#### Commencement Information

- I2** Sch. 24 para. 5 in force at 1.4.2008 for certain purposes, 1.7.2008 for certain purposes, 1.1.2009 for certain purposes, and 1.4.2009 in so far as not already in force by [S.I. 2008/568](#), [art. 2](#) (with [art. 3](#))

#### *Potential lost revenue: multiple errors*

- 6 (1) Where P is liable to a penalty [<sup>F3</sup>under paragraph 1] in respect of more than one inaccuracy, and the calculation of potential lost revenue under paragraph 5 in respect of each inaccuracy depends on the order in which they are corrected—
- (a) careless inaccuracies shall be taken to be corrected before deliberate inaccuracies, and
  - (b) deliberate but not concealed inaccuracies shall be taken to be corrected before deliberate and concealed inaccuracies.
- (2) In calculating potential lost revenue where P is liable to a penalty [<sup>F4</sup>under paragraph 1] in respect of one or more understatements in one or more documents relating to a tax period, account shall be taken of any overstatement in any document given by P which relates to the same tax period.
- (3) In sub-paragraph (2)—
- (a) “understatement” means an inaccuracy that satisfies Condition 1 of paragraph 1, and
  - (b) “overstatement” means an inaccuracy that does not satisfy that condition.
- (4) For the purposes of sub-paragraph (2) overstatements shall be set against understatements in the following order—
- (a) understatements in respect of which P is not liable to a penalty,
  - (b) careless understatements,

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- (c) deliberate but not concealed understatements, and
- (d) deliberate and concealed understatements.

- (5) In calculating [<sup>F5</sup>for the purposes of a penalty under paragraph 1] potential lost revenue in respect of a document given by or on behalf of P no account shall be taken of the fact that a potential loss of revenue from P is or may be balanced by a potential over-payment by another person (except to the extent that an enactment requires or permits a person's tax liability to be adjusted by reference to P's).

#### Textual Amendments

- F3** Words in Sch. 24 para. 6(1) inserted (1.4.2009) by [Finance Act 2008 \(c. 9\), s. 122\(2\), Sch. 40 para. 8\(2\); S.I. 2009/571, art. 2](#)
- F4** Words in Sch. 24 para. 6(2) inserted (1.4.2009) by [Finance Act 2008 \(c. 9\), s. 122\(2\), Sch. 40 para. 8\(2\); S.I. 2009/571, art. 2](#)
- F5** Words in Sch. 24 para. 6(5) inserted (1.4.2009) by [Finance Act 2008 \(c. 9\), s. 122\(2\), Sch. 40 para. 8\(3\); S.I. 2009/571, art. 2](#)

#### Commencement Information

- I3** Sch. 24 para. 6 in force at 1.4.2008 for certain purposes, 1.7.2008 for certain purposes, 1.1.2009 for certain purposes, and 1.4.2009 in so far as not already in force by [S.I. 2008/568, art. 2 \(with art. 3\)](#)

#### *Potential lost revenue: losses*

- 7 (1) Where an inaccuracy has the result that a loss is wrongly recorded for purposes of direct tax and the loss has been wholly used to reduce the amount due or payable in respect of tax, the potential lost revenue is calculated in accordance with paragraph 5.
- (2) Where an inaccuracy has the result that a loss is wrongly recorded for purposes of direct tax and the loss has not been wholly used to reduce the amount due or payable in respect of tax, the potential lost revenue is—
- (a) the potential lost revenue calculated in accordance with paragraph 5 in respect of any part of the loss that has been used to reduce the amount due or payable in respect of tax, plus
  - (b) 10% of any part that has not.
- (3) Sub-paragraphs (1) and (2) apply both—
- (a) to a case where no loss would have been recorded but for the inaccuracy, and
  - (b) to a case where a loss of a different amount would have been recorded (but in that case sub-paragraphs (1) and (2) apply only to the difference between the amount recorded and the true amount).
- (4) Where an inaccuracy has the effect of creating or increasing an aggregate loss recorded for a group of companies—
- (a) the potential lost revenue shall be calculated in accordance with this paragraph, and
  - (b) in applying paragraph 5 in accordance with sub-paragraphs (1) and (2) above, group relief may be taken into account (despite paragraph 5(4)(a)).
- (5) The potential lost revenue in respect of a loss is nil where, because of the nature of the loss or P's circumstances, there is no reasonable prospect of the loss being used to support a claim to reduce a tax liability (of any person).

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#### Commencement Information

- I4** Sch. 24 para. 7 in force at 1.4.2008 for certain purposes, 1.7.2008 for certain purposes, 1.1.2009 for certain purposes, and 1.4.2009 in so far as not already in force by [S.I. 2008/568](#), [art. 2](#) (with [art. 3](#))

#### *Potential lost revenue: delayed tax*

- 8 (1) Where an inaccuracy resulted in an amount of tax being declared later than it should have been (“the delayed tax”), the potential lost revenue is—
- (a) 5% of the delayed tax for each year of the delay, or
  - (b) a percentage of the delayed tax, for each separate period of delay of less than a year, equating to 5% per year.
- (2) This paragraph does not apply to a case to which paragraph 7 applies.

#### Commencement Information

- I5** Sch. 24 para. 8 in force at 1.4.2008 for certain purposes, 1.7.2008 for certain purposes, 1.1.2009 for certain purposes, and 1.4.2009 in so far as not already in force by [S.I. 2008/568](#), [art. 2](#) (with [art. 3](#))

#### *Reductions for disclosure*

- 9 <sup>F6</sup>(A1) Paragraph 10 provides for reductions in penalties under paragraphs 1, 1A and 2 where a person discloses an inaccuracy, a supply of false information or withholding of information, or a failure to disclose an under-assessment.]
- (1) A person discloses an inaccuracy<sup>F7</sup>, a supply of false information or withholding of information,] or a failure to disclose an under-assessment by—
- (a) telling HMRC about it,
  - (b) giving HMRC reasonable help in quantifying the inaccuracy <sup>F8</sup>, the inaccuracy attributable to the supply or false information or withholding of information, or the] under-assessment, and
  - (c) allowing HMRC access to records for the purpose of ensuring that the inaccuracy<sup>F9</sup>, the inaccuracy attributable to the supply or false information or withholding of information, or the] under-assessment is fully corrected.
- (2) Disclosure—
- (a) is “unprompted” if made at a time when the person making it has no reason to believe that HMRC have discovered or are about to discover the inaccuracy<sup>F10</sup>, the supply of false information or withholding of information, or the under-assessment], and
  - (b) otherwise, is “prompted”.
- (3) In relation to disclosure “quality” includes timing, nature and extent.

#### Textual Amendments

- F6** Sch. 24 para. 9(A1) inserted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 9\(2\)](#); [S.I. 2009/571](#), [art. 2](#)

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- F7** Words in Sch. 24 para. 9(1) inserted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 9\(3\)\(a\)](#); [S.I. 2009/571](#), art. 2
- F8** Words in Sch. 24 para. 9(1)(b) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 9\(3\)\(b\)](#); [S.I. 2009/571](#), art. 2
- F9** Words in Sch. 24 para. 9(1)(c) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 9\(3\)\(b\)](#); [S.I. 2009/571](#), art. 2
- F10** Words in Sch. 24 para. 9(2)(a) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 9\(4\)](#); [S.I. 2009/571](#), art. 2

#### Commencement Information

- I6** Sch. 24 para. 9 in force at 1.4.2008 for certain purposes, 1.7.2008 for certain purposes, 1.1.2009 for certain purposes, and 1.4.2009 in so far as not already in force by [S.I. 2008/568](#), [art. 2](#) (with [art. 3](#))

- 10 (1) Where a person who would otherwise be liable to a 30% penalty has made an unprompted disclosure, HMRC shall reduce the 30% to a percentage (which may be 0%) which reflects the quality of the disclosure.
- (2) Where a person who would otherwise be liable to a 30% penalty has made a prompted disclosure, HMRC shall reduce the 30% to a percentage, not below 15%, which reflects the quality of the disclosure.
- (3) Where a person who would otherwise be liable to a 70% penalty has made an unprompted disclosure, HMRC shall reduce the 70% to a percentage, not below 20%, which reflects the quality of the disclosure.
- (4) Where a person who would otherwise be liable to a 70% penalty has made a prompted disclosure, HMRC shall reduce the 70% to a percentage, not below 35%, which reflects the quality of the disclosure.
- (5) Where a person who would otherwise be liable to a 100% penalty has made an unprompted disclosure, HMRC shall reduce the 100% to a percentage, not below 30%, which reflects the quality of the disclosure.
- (6) Where a person who would otherwise be liable to a 100% penalty has made a prompted disclosure, HMRC shall reduce the 100% to a percentage, not below 50%, which reflects the quality of the disclosure.

#### Commencement Information

- I7** Sch. 24 para. 10 in force at 1.4.2008 for certain purposes, 1.7.2008 for certain purposes, 1.1.2009 for certain purposes, and 1.4.2009 in so far as not already in force by [S.I. 2008/568](#), [art. 2](#) (with [art. 3](#))

#### *Special reduction*

- 11 (1) If they think it right because of special circumstances, HMRC may reduce a penalty under paragraph 1<sup>[F11]</sup>, 1A] or 2.
- (2) In sub-paragraph (1) “special circumstances” does not include—
- (a) ability to pay, or
- (b) the fact that a potential loss of revenue from one taxpayer is balanced by a potential over-payment by another.
- (3) In sub-paragraph (1) the reference to reducing a penalty includes a reference to—
- (a) staying a penalty, and

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- (b) agreeing a compromise in relation to proceedings for a penalty.

#### Textual Amendments

**F11** Word in Sch. 24 para. 11(1) inserted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 10](#); [S.I. 2009/571](#), art. 2

#### Commencement Information

**I8** Sch. 24 para. 11 in force at 1.4.2009 in so far as not already in force by [S.I. 2008/568](#), [art. 2](#) (with [art. 3](#))

*Interaction with other penalties [<sup>F12</sup>and late payment surcharges]*

#### Textual Amendments

**F12** Words in Sch. 24 para. 12 cross-heading inserted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 11\(4\)](#); [S.I. 2009/571](#), art. 2

- 12 (1) The final entry in the Table in paragraph 1 excludes a document in respect of which a penalty is payable under section 98 of TMA 1970 (special returns).
- (2) The amount of a penalty for which P is liable under paragraph 1 or 2 in respect of a document relating to a tax period shall be reduced by the amount of any other penalty [<sup>F13</sup>incurred by P, or any surcharge for late payment of tax imposed on P, if the amount of the penalty or surcharge is determined by reference to the same tax liability.]
- (3) In the application of section 97A of TMA 1970 (multiple penalties) no account shall be taken of a penalty under paragraph 1 or 2.
- [<sup>F14</sup>(4) Where penalties are imposed under paragraphs 1 and 1A in respect of the same inaccuracy, the aggregate of the amounts of the penalties must not exceed 100% of the potential lost revenue.]

#### Textual Amendments

**F13** Words in Sch. 24 para. 12(2) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 11\(2\)](#); [S.I. 2009/571](#), art. 2

**F14** Sch. 24 para. 12(4) inserted (1.4.2009) by [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 11\(3\)](#); [S.I. 2009/571](#), art. 2

#### Commencement Information

**I9** Sch. 24 para. 12 in force at 1.4.2008 for certain purposes, 1.7.2008 for certain purposes, 1.1.2009 for certain purposes, and 1.4.2009 in so far as not already in force by [S.I. 2008/568](#), [art. 2](#) (with [art. 3](#))

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